

ORDINANCE NO. 1709

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
REPEALING AND REENACTING CHAPTER 13.16 OF THE LODI
MUNICIPAL CODE RELATING TO SOLID WASTE

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Chapter 13.16 "Solid Waste" of the Lodi Municipal Code is hereby repealed and reenacted to read as follows:

13.16.010 Definitions.

13.16.020 Required Services-- Exceptions.

13.16.030 Contract for Refuse Collection and Transportation.

13.16.040 All Requests for Service to be Met.

13.16.050 Placement of Containers.

13.16.060 Refuse Collection and Transportation Restricted.

13.16.070 Limitation on Transfer of Contract.

13.16.080 Container Maintenance.

13.16.090 Hazardous Materials.

13.16.100 Billing and Collection of Fees.

13.16.110 Monthly Rates.

13.16.120 Burning or Burial.

13.16.130 Unlawful Deposit.

13.16.140 Removal of Recyclable Material Prohibited.

13.16.150 Industrial Waste Collection and Transportation Restricted.

13.16.160 Permit Required.

13.16.170 Franchise Fee.

13.16.180 Industrial waste-- Processing Through Materials Recovery Facility (MRF).

13.16.190 Transport by Generator of Industrial Waste-- Exemption.

13.16.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following definitions apply:

A. "Collection" means the act of collecting refuse at the place of waste generation by an approved collection agent (public or private), and is distinguished from "removal."

B. "Collection vehicle or equipment" means and includes any vehicle or equipment used in the collection of residential refuse or commercial or industrial solid wastes.

C. "Commercial customers" means all commercial (non-manufacturing) enterprises within the City limits except industrial customers.

D. "Container service" means the type of refuse removal consisting of containers ranging from one cubic yard to fifty cubic yards, typically for large volume refuse generators.

E. "Contract" means the written agreement covering the performance of the work, including, but not limited to, the formal agreement, and special provisions, affidavits and certificates of equal opportunity employment, certificate of worker's compensation insurance, the proposal, contract specifications and performance bond.

F. "Contractor" means the individual, partnership, corporation, joint venture or other legal entity entering into a contract with the City to perform the work. When modified by the phrase "as constituted," it means the partnership, corporation or other legal entity as organized and existing, with the same majority shareholders, as determined at the time of the execution of a contract between the contractor and the City.

G. "Disposal site" means and includes the place, location, tract of land, area or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes.

H. "Garden (Green) Waste" means refuse consisting of grass, leaves, wood chips, green plants, weeds, tree branches and garden trimmings.

I. "Industrial customer" means all manufacturing enterprises who generate industrial waste within the City limits except commercial customers. The City Manager or other designee shall determine whether a customer is "Industrial" or "Commercial".

J. "Industrial Waste" means solid waste originating from manufacturing facilities and factories including construction and demolition projects. Industrial waste also means solid waste produced by any person, firm or corporation primarily engaged in the business of processing and manufacturing for the purpose of wholesale.

K. "Multi-Cart Service" means the type of refuse removal designed for source separating into three carts. One cart for non-recyclable materials and non-green waste, one cart for recyclable materials and one cart for green waste. This type of service is generally for lower volume refuse generators with carts of less than 100 gallons.

L. "Recycling" means the process by which salvaged materials become usable products.

M. "Refuse" means any and all discarded items and substances of every kind, including salvageable or recyclable materials, and garden (green) wastes, but not including sewage, septic tank contents, infectious wastes, or hazardous wastes as defined by state and/or federal law.

N. "Removal" means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.

O. "Residential Customer" means all residences within the City limits, including single-family and multi-family dwellings.

P. "Subcontractor" means the individual, partnership or corporation or other legal entity entering into a contract with the contractor to perform a portion of the work.

Q. "Transfer Station/Resource Recovery Facility" means and includes those facilities utilized to receive solid wastes, temporarily store, separate, convert or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport to their final place of disposition.

13.16.020 Required Services-- Exceptions.

A. Every person owning or occupying residential or commercial premises within the City limits shall utilize the refuse collection and transportation services of the contractor for which the City has contracted, and shall pay the fees for those services as set by the City. Each owner or occupier of residential or commercial property shall directly arrange with the City or its designee for the provision of services. The City may cause to be removed, at the expense of the owner or occupier of any premises, any refuse not collected due to the failure or refusal of the owner or occupier of the premises to arrange or pay for the contractor's services.

B. Exceptions. Notwithstanding any other provision of this chapter, any person or firm may apply to the City for a permit, for which a fee may be charged, to transport and dispose of refuse accumulated or generated on the premises, utilizing his or its own vehicles and equipment. Any such permit shall require that all vehicles used to transport refuse shall be constructed, maintained and operated so that liquids or refuse will not blow, fall, sift or leak, and shall be maintained to prevent unnecessary noise. The permittee shall pick up any refuse dropped or deposited in the process of transporting it to the disposal site. Nothing in this paragraph shall be construed to mean any customer may undertake refuse collection, transportation or disposal services for any other person or firm under any circumstances.

13.16.030 Contract for Refuse Collection and Transportation.

The City has the exclusive right and duty to collect and transport refuse within the City limits, under such terms and conditions as it deems necessary for the public health, safety and well-being; and it may contract with a contractor for the provision of those services.

13.16.040 All Requests for Service to be Met.

The contractor shall provide refuse collection and transportation services to all and customers within the area specified in its contract except for industrial waste. The contractor shall not be required to service oversized, overweight or unsafe containers, or to remove hazardous waste, or to remove waste where it is unsafe to do so.

13.16.050 Placement of Containers.

A. Residential. Residential customers utilizing refuse carts shall place containers at the curb or other areas as approved by the Public Works Director. Residential customers using container service shall place such containers on their premises in an approved location readily accessible to the contractor, free of obstacles. Failure to meet any of these conditions shall constitute cause for the contractor's refusal to perform collection services. The contractor shall, after collection, return containers/carts to the location from which they were collected.

B. Commercial. Commercial customers shall place refuse in a location on their premises in an approved location that is readily accessible to the contractor's collection vehicles, and that has received the contractor's prior approval as conforming to its specifications and requirements for refuse container facilities. The contractor shall make such specifications and requirements available upon request by a customer. Failure to place containers in an approved location shall constitute cause for the contractor's refusal to perform refuse services.

C. Any gate to the container storage area must be maintained by the property owner in good working condition, and shall be left unlocked on the regularly scheduled collection day. Any animals shall be restrained. Ashes must be cold and bagged, and animal droppings must be bagged in a nonpermeable material.

13.16.060 Refuse Collection and Transportation Restricted.

Except as provided in this chapter, at any time when there is a contract in force between the City and any contractor, it shall be unlawful for any person other than the contractor to collect or transport refuse within the City limits.

This section shall not be construed to prevent customers from hauling occasional loads of refuse from their own premises to a legal point of disposal.

13.16.070 Limitation on Transfer of Contract.

No contract entered into pursuant to the provisions of this chapter shall be assigned without prior consent of the City.

13.16.080 Container Maintenance.

It shall be the responsibility of customer to maintain contractor furnished carts/containers in a safe and sanitary condition. The contractor shall be responsible for keeping them in good repair, free from sharp or rough edges, jagged surfaces, or other hazards likely to cause injury. All refuse containers shall be tightly covered.

13.16.090 Hazardous Materials.

No person shall deposit in any container used for refuse any explosive or highly flammable, radioactive, toxic or other hazardous material or substance as defined by state and/or federal law. However, special arrangements may be made with the contractor for removal of such hazardous material if the contractor provides such service. The contractor is under no obligation to remove hazardous waste.

13.16.100 Billing and Collection of Fees.

The Director of Finance is designated as the collector of all refuse fees or charges. Each month, he/she shall bill every person producing refuse removed by the City or its contractor and adding the amount of such refuse collection fee or charge to such person's water or electric bill, or, if such person has not incurred bills for water or electricity, by billing them for refuse collection alone. If the bill is not timely paid as required within this chapter, the water service and/or the electric service and/or the refuse service to such delinquent customer may be discontinued. Penalties and rules pertaining to payment of water and electric bills and to discontinuance and renewal of water and electric service shall apply to refuse service. It shall be the contractor's responsibility to notify the City of billing for services to and collecting fees from customers for whom it performs services on other than a regularly scheduled service.

13.16.110 Monthly Rates.

The City shall establish by resolution of the City Council a schedule of rates to be charged for the collection and transportation of refuse within the City limits. Upon adoption, such schedule shall be published once in the Lodi News Sentinel or a newspaper of general circulation within the City. Such schedule shall set the rates for refuse collection and refuse permits.

13.16.120 Burning or Burial.

It is unlawful for any person to burn or bury within the City any refuse, or to place or deposit upon any street, alley, place or vacant lot, any of the materials included in the definition of the word "refuse" in Section 13.16.010.

13.16.130 Unlawful Deposit.

A. It is unlawful for any person to throw into or deposit upon any public street, highway or grounds, or in any gutter or ditch, or upon any private premises, or anywhere except in such places as may be designated for such purposes by the City, any glass, broken ware, dirt, rubbish, refuse or filth; nor shall any rubbish, refuse or filth be allowed to remain upon any private premises.

B. Any refuse, dirt, rubbish, soot, ashes, cinders or filth of every kind in any house, cellar, yard or any other place, which the City or other legally authorized health officer, for the health of the City, deems necessary to be removed, shall be carried away therefrom by and at the expense of the owner or occupant of such house or any place where the same may be found, and removed beyond the corporate limits or to such place as may be designated by the City or other legally authorized health officer.

13.16.140 Removal of Recyclable Material Prohibited.

It is unlawful and an infraction for any person, other than the City's designated contractor, to remove or collect recyclable or salvageable materials placed by any person in a bag or container labeled for use in connection with a recycling program operated by the contractor.

13.16.150 Industrial Waste Collection and Transportation Restricted.

Except as provided in this chapter and on the conditions contained herein, it shall be unlawful for any person or firm to collect or transport industrial waste within the City limits of Lodi. The term "industrial waste" shall not include recyclable materials when such materials are segregated from other types of waste, as defined in this chapter.

13.16.160 Permit Required.

A. No person or firm shall engage in the collection or transportation of industrial waste within the City without first obtaining from the finance department a nonexclusive permit for such activities and paying an annual permit fee in an amount to be set from time to time by resolution of the City Council, adopted pursuant to this article. Such permit fee shall be in addition to any other annual business license fees or franchise fees. The City Council finds and declares that such fee is necessary and proper to defray the costs of required monitoring, accounting and recordkeeping in order to comply with state solid waste management statutes including, but not limited to, Public Resources Code Section 40000 et seq.

B. Permittees under this article shall be required to furnish to the City the following:

1. A certificate of insurance for vehicle and general liability in an amount not less than one million dollars, plus proof of Workers Compensation coverage;
2. Proof of inspection by the California Highway Patrol and/or the San Joaquin County health department of all vehicles used for the hauling of industrial waste;
3. A bond or suitable guarantee for potential defaults or failures to pay franchise fee in an amount to be determined by the finance director.

13.16.170 Franchise Fee.

All persons or firms engaged in the collection or transportation of industrial waste shall pay to the City an annual franchise fee equivalent to 4.8 percent of the gross revenues for such collection and/or transportation.

13.16.180 Industrial Waste-- Processing Through Materials Recovery Facility (MRF).

All persons and firms engaged in the collection and transportation of industrial waste shall channel all such waste through a materials recovery facility (MRF) licensed by the state of California. Such MRF may be located inside or outside the City. It shall be the responsibility of the licensee to provide to the City on a quarterly basis all data and information on the waste stream volume required under state solid waste reduction statutes. Failure to provide such information may result in revocation of any permit issued under this division.

13.16.190 Transport by Generator of Industrial Waste-- Exemption.

Any person or firm generating industrial waste as defined in this chapter may choose to transport its own waste for disposal on the following conditions:

A. Self-hauler shall obtain a permit from the City, for which no fee will be charged;

B. All self-hauled industrial waste shall be channeled through a state-licensed materials recovery facility (MRF);

C. No waste of any nature from any source other than industrial waste generated by the self-hauler may be transported under this section.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.


SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this 6th day of March, 2002


PHILLIP A. PENNINO
Mayor

Attest:


SUSAN J. BLACKSTON
City Clerk

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State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1709 was introduced at a regular meeting of the City Council of the City of Lodi held February 20, 2002, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held March 6, 2002 by the following vote:

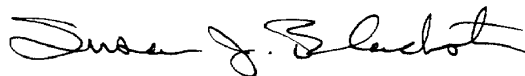
AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

NOES; COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1709 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.



SUSAN J. BLACKSTON
City Clerk

Approved as to Form:



RANDALL A. HAYS
City Attorney